C.F. 1002 (1)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 1055 **/2005**

PETITIONER
(Defendant-1-A)
+

Pramod Kumar Gupta,
S/o. Late Shri Badri Prasad Gupta, Aged about 55 years,
R/o. Malviya Road, Raipur,
Tahsil & Dist. Raipur (C.G.).

VERSUS

RESPONDENTS
(Plaintiffs 2 to 4)
+

1. Jitendra Nath Bhattacharya,
S/o. Late Nivaranchandra Bhattacharya, Aged about 62 years, R/o. Hospital Ward,
Raipur, Tahsil & District Raipur (C.G.)

2. Maniklal Bhattacharya,
S/o. Virendra Nath Bhattacharya, Aged about 39 years, Executive Engineer P.H.E., R/o. Kanker, Tahsil Kanker, District Bastar (now Kanker) (C.G)

3. Hiralal Bhattacharya,
S/o. Virendra Nath Bhattacharya, Aged about 35 years, R/o. Hospital Ward,
Raipur, Tahsil & District Raipur (C.G.)

P.R. No. 1061/05
Presented by Shri A.K. Verma
dated 11-03-05

(Defendants 2 to 5)
+

4. Vinod Kumar Gupta,
S/o. Badri Prasad Gupta,
Aged about 30 years,
R/o. Malviya Road, Raipur,
Tahsil & Dist. Raipur (C.G.)

5. Smt. Shyama,
W/o. Shri S.M. Chatterjee,
Aged about 25 years,
R/o. Gole Muri, Tatanagar,
Dist. Singh Bhumi (Bihar)

शपथ आयुक्त
बिलासपुर (छ.ग.)

6. Smt. Manika,
W/o. Shri Ranjan Nandi,
Aged about 27 years,
R/o. Santoshpur, Near State Bank, Kolkata (W.B.)

7. Smt. Rahi Bai,
W/o. Satendra Nath Bhattacharya, Aged about 45 years, R/o. Hospital Ward,
Raipur, Tahsil & District Raipur (C.G.)

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WRIT PETITION UNDER ARTICLE ~~226~~/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION *OR DIRECTIONS.*

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XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 1055/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	23-3-2005 Shri Ashish Shrivastava, counsel for the petitioner. Heard. 2. The petition is preferred against the order dated 5-2-2005 passed by the First Additional District Judge, Raipur, in civil suit No.9-A/2005 whereby an application filed by the petitioner under Order 18 Rule 17 and Order 17 Rule 3 read with Section 151 of the Code of Civil Procedure has been rejected. 3. Learned counsel for the petitioner submitted that the petitioner has filed an application under Order 18 Rule 17 and Order 17 Rule 3 read with Section 151 of the Code of Civil Procedure for further cross examination of the witnesses who were already examined. 4. The said application was considered by the Court below and by reasoned order the same has been rejected. A perusal of the record goes to show that the civil suit was filed in the year 1982. It is pending since then and being protracted on one ground or the other. It is further noted that the evidence of defendant No.1 has been closed	

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 1055/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

on 1-5-2002 and after about more than 2½ years the application under Order 18 Rule 17 and Order 17 Rule 3 read with Section 151 of the Code of Civil Procedure has been filed. The Court below has been exercised the jurisdiction for rejecting the application filed by the petitioner after consideration of all the relevant facts and circumstances of the case and this Court has also gone through the record. The witnesses were examined and they were also cross-examined. The matter is pending since more than 23 years. Even the evidence was closed 2½ years back. Full opportunity was there to examine and cross-examine the witnesses. There is no error of jurisdiction.

5. So far as power of this Court under Article 226/227 is concerned, the matter has been dealt with in great detail by the Hon'ble Supreme Court in the case of ***Surya dev Rai -v- Ram Chander Rai and Others*** reported in ***2003(6) SCC 675***.

6. Having considered the facts and circumstances of the case and material on record, in the opinion of this Court, no case is made out for interference, in the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 1055/05 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	 impugned order dated 5-2-2005 passed by the Court below by this Court in exercise of jurisdiction vested under Article 227 of the Constitution of India. 7. Accordingly, this petition fails and the same is dismissed. 8. Consequently, M.(W.).P.No.849/2005 and I.A.No. 2003/2005 also stand disposed of. 9. Learned counsel for the petitioner contended that he may be allowed to raise the question in appeal. Permission for that purpose is not required. However, if the question is raised, it is directed that the same shall be considered and decided on its own merits in accordance with law. **Sd/-** **Fakhruddin** **Judge** Gowri	